

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Maurer et al.

Application Serial No.: 10/767,352

Filed: January 30, 2004

For: *Oral Compositions of Fenretinide Having Increased Bioavailability and Methods of Using the Same*

Confirmation No.: 4884

Group Art Unit: 1618

Examiner: Blessing M. Fubara

Date: December 30, 2010

Office of Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO ACCORD THE PROPER FILING DATE**

Sir:

As set forth in 37 CFR § 1.10(c) and MPEP § 506.02, Applicants hereby petition to grant the proper filing date of January 29, 2004 rather than January 30, 2004 for the above-identified patent application as this was the date the application was deposited as "Express Mail" in the U.S. Postal Service. The following is enclosed as evidence of January 29, 2004 being the correct filing date for the application which was properly filed under 37 C.F.R. § 1.10:

1. A true and accurate copy of the Cover Sheet for the Application showing the Express Mail signature and date on Page 2;
2. A true and accurate copy of the Express Mail Receipt marked by the United States Postal Service ("USPS") as a "date-in" or deposit date with the USPS of January 29, 2004; and
3. A copy of the official filing receipt for this application, sent by the United States Patent and Trademark Office, showing that Applicants were improperly given the filing date of January 30, 2004 instead of the Express Mail date of January 29, 2004.

This petition is being filed promptly after Applicants became aware of the improperly accorded filing date. Accordingly, Applicants respectfully request the granting of January 29, 2004 as the filing date pursuant to 37 CFR § 1.10.

On the basis that Applicants properly followed the requirements of 37 CFR § 1.10 and the USPTO failed to accord the proper filing date under MPEP § 505 and thus the

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Filed: January 30, 2004  
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need to file this petition is due to error on the part of the USPTO, it is applicants' belief that no fee is due with this petition. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

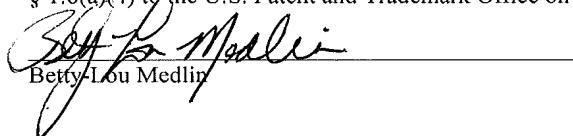


Shawna Cannon Lemon  
Attorney For Applicants  
Registration No. 53,888

**USPTO Customer No. 20792**  
Myers Bigel Sibley & Sajovec  
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Facsimile: 919/854-1401

**CERTIFICATION OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on December 30, 2010.



Betty-Lou Medlin

The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

7.  Microfiche Computer Program (*Appendix*)  
8.  Assignment papers (*cover sheet(s) and document(s)*)  
9.  Applicant claims small entity status. See 37 CFR § 1.27.  
10.  Information Disclosure Statement, PTO-1449, and 9 references cited  
11.  Preliminary Amendment (*Please enter all claim amendments prior to calculating the filing fee.*)  
12.  English Translation Document  
13.  Certified Copy of Application No. ; Filed  
14.  Sequence Listing/ Sequence Listing Diskette  
    a.  computer readable copy  
    b.  paper copy  
    c.  statement in support  
15.  An Associate Power of Attorney  
16.  Return Receipt Postcard (MPEP 503) (*Should be specifically itemized*)  
17.  Deletion of Inventors(s) (*Signed statement attached deleting inventor(s) name in the prior application. See 37 CFR 1.63(d)(2) and 1.33(b).*)  
18.  Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form.  
19.  Other:

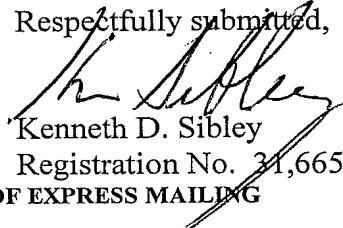
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The fee has been calculated as shown below:

	Column 1 No. Filed	Column 2 No. Extra	Small Entity Rate Fee	Large Entity Rate Fee
BASIC FEE			\$385.00	\$ 770.00
TOTAL CLAIMS	22 - 20 =	2	x 09 = \$	x 18 = \$36.00
INDEP CLAIMS	1 - 3 =	0	x 43 = \$	x 86 = \$
<input type="checkbox"/> MULTIPLE Dependent Claims Presented			+ 145 = \$	+ 290 = \$
<i>If the difference in Col. 1 is less than zero, Enter "0" in Col. 2</i>		Total \$	Total \$806.00	

- A check in the amount of \$806.00 to cover the filing fee is enclosed.  
 A check in the amount of \$ is enclosed to cover the filing fee, PLUS the Assignment Recordation fee (\$40.00).  
 Please charge my Deposit Account No. 50-0220 in the amount of \$  
 The Commissioner is hereby authorized to credit overpayments or charge the following fees associated with this communication to Deposit Account No. 50-0220:  
    a.  Additional filing fees under 37 CFR 1.16 for presentation of extra claims.  
    b.  Additional patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

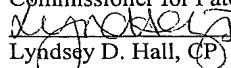
  
Kenneth D. Sibley  
Registration No. 31,665

CERTIFICATE OF EXPRESS MAILING

Express Mail Label No. EV381447871US

Date of Deposit: January 29, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10 on the date indicated above and is addressed to: Mail Stop PATENT APPLICATION, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

  
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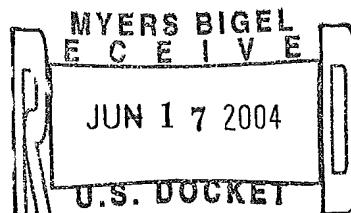
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Page 1 of 2  
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/767,352	01/30/2004	1614	806	9022-41	2	22	1

20792  
MYERS BIGEL SIBLEY & SAJOVEC  
PO BOX 37428  
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CONFIRMATION NO. 4884

FILING RECEIPT



\*OC000000012950788\*

Date Mailed: 06/15/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

**Applicant(s)**

Barry J. Maurer, Sylmar, CA;  
Charles Patrick Reynolds, Sherman Oaks, CA;  
David W. Yesair, Byfield, MA;  
Robert Travis McKee, Birmingham, AL;  
Stephen W. Burgess, Alabaster, AL;  
Walter A. Shaw, Birmingham, AL;

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**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/444,530 01/31/2003

**Foreign Applications****If Required, Foreign Filing License Granted:** 06/15/2004**Projected Publication Date:** To Be Determined - pending completion of Missing Parts**Non-Publication Request:** No**Early Publication Request:** No**Title**

Oral compositions of fenretinide having increased bioavailability and methods of using the same

Preliminary Class

514

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Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

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